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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,886	10/13/2000	Kail Lester Linebrink	13DV13462	8821

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[REDACTED] EXAMINER

KOCZO JR, MICHAEL

ART UNIT	PAPER NUMBER
3746	13

DATE MAILED: 08/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/687,886	LINEBRINK, KAIL LESTER	
	Examiner	Art Unit	
	Michael Koczo, Jr.	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 August 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5-9,11-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5-9,11-16 and 18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 July 2002 is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's arguments filed on August 12, 2002 have been fully considered but they are not persuasive.

Specification

The disclosure is objected to because of the following informalities:

Numerals 100 and 200 which are shown in figures 4 and 5, respectively, are not mentioned in the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1 to 3, 5 to 9, 11 to 16 and 18 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no detailed description in the specification of a fuel system interface which receives electrically and mechanically originated over-speed signals. The specification describes a fuel system interface which receives only electrically originated over-speed signals (figure 2), a fuel system interface which receives only mechanically originated over-speed signals (figure 4) and a fuel system interface which receives only hydraulically originated over-speed signals (figure 5).

One of ordinary skill in the art would therefore not know how the electrical and mechanical speed sensors would operate in conjunction with each other and how they would interface with the fuel control system.

Applicant argues that one of ordinary skill in the art, after reading the specification in view of the figures, would agree that the subject matter in the specification is described in such a manner as to reasonably convey that the applicant had possession of the claimed invention, at the time the application was filed. This is merely an allegation unsupported by fact, and is therefore unconvincing.

Applicant argues further that the specification as filed does support a fuel system interface which receives electrically and mechanically originated over-speed signals. This is clearly erroneous. There is no description in the specification and showing in the drawings of a fuel system receiving both electrically and mechanically originated over-speed signals.

Claims 1 to 3, 5 to 9, 11 to 16 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims recite “coupling the fuel system interface shutoff shuttle valve to the fuel system... based on pre-defined priority selection logic.” It is not clear what is the selection which is claimed. Making a selection requires a list from which to select. No such list is claimed. Furthermore, it is not clear which parameters or operating conditions determine which selection is made from the list. That is, how is the priority determined?

Applicant argues that one of ordinary skill in the art, after reading the specification in view of the figures, would understand the claimed recitation of coupling the fuel system interface shutoff shuttle valve to the fuel system based on pre-defined priority selection logic.

This is merely an allegation unsupported by fact. The issue is whether or not the claims are sufficiently definite in order that the scope thereof can be clearly ascertained without resorting to the specification.

The prior art has not been applied to the claims due to their indefiniteness and basis on an inadequate disclosure.

Conclusion

This is a RCE continuation application. All claims are drawn to the same invention claimed prior to filing of this RCE application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered prior to filing of the RCE application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

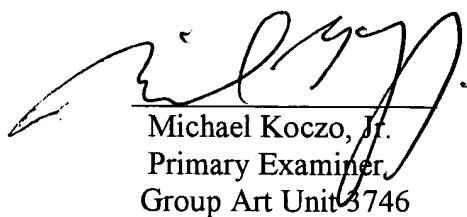
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however,

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event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry relating to the status of this application or proceeding should be directed to the Customer Service Office whose telephone number is 703-306-5648.

Any inquiry relating to patent applications in general should be directed to the Patent Assistance Center at 1-800-786-9199.



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